

14



THE ASSOCIATION of
CORPORATE CREDIT UNIONS

VIA FACSIMILE: 202/622-1657

July 19, 2002

Chief of Records
ATTN: Request for Comments
Office of Foreign Assets Control
Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

RE: 31 C.F.R. Part 501, Rules Governing Availability of Information

Dear Sir or Madame:

The Association of Corporate Credit Unions (ACCU) appreciates the opportunity to comment on the Office of Foreign Assets Control's (OFAC's) proposed rule regarding the disclosure of certain civil penalties information. By way of background, ACCU serves as the primary trade association for the thirty-three corporate credit unions (corporates) located around the country. Corporates are wholesale credit unions that provide liquidity, investment products, payments settlement and other financial services to their members, the nation's 10,500 federal and state-chartered credit unions.

Under the proposed rule, OFAC will disclose to the public certain information about civil penalties that are imposed, as well as informal settlements. This information will be disclosed periodically and at least on a quarterly basis.

ACCU commends OFAC's commitment to making its enforcement activities more transparent to the public. However, while ACCU generally favors efforts to publicly disclose government activities, we believe that disclosing information about OFAC penalties may unfairly impact some entities that are listed. The burdens of complying with OFAC sanctions are already quite substantial and impact all entities involved in the payments chain. The sanctions also include significant monitoring of an ever-changing list of terrorist or money laundering suspects as well as very steep penalties for noncompliance.

As financial institutions processing millions of dollars each day for their members, corporates are eager to comply with programs that OFAC administers. Although corporates do utilize specialized software to filter or track transactions for purposes of OFAC compliance, the ever-increasing complexity of the OFAC sanctions programs raises the risk that entities may mistakenly violate the requirements. Publicly disclosing such violations would aggravate this potential problem by causing a crisis of confidence in those entities that would be affected.

For corporates and credit unions, the consequences of disclosing such violations could be severe. Corporates are trusted partners to their member credit unions. They assist their members extensively in the processing of payments and transactions that must be screened pursuant to OFAC criteria. If a corporate inadvertently violated an OFAC reporting requirement, the public disclosure of such a violation may cause members to lose confidence in the corporate.

Such public disclosure may actually exacerbate the current situation resulting from the crisis of confidence that now exists in our economy as a result of a number of accounting scandals affecting a growing number of large corporations. Although we certainly support disclosing the actions of guilty parties, we believe that the harm caused to corporates and in turn their member credit unions by disclosing inadvertent OFAC violations outweighs the possible benefit that the rest of the public would receive from such disclosures, which we believe would be insignificant. Moreover, the penalties that corporates would have to bear will be substantial, regardless of whether they are publicly disclosed, and these penalties will provide sufficient incentive for corporates and their member credit unions to avoid future, inadvertent violations.

If OFAC chooses to proceed with this proposed rule, ACCU recommends that OFAC provide the affected parties a period of time, such as ninety days or more, so that they can correct the violation in order to avoid public disclosure. If the disclosure would still have to be made public, this period of time would also provide these entities with a reasonable opportunity to advise their members or customers of the circumstances of the situation and to persuade them not to take actions to alter their relationships with the institution.

OFAC requested comment on whether it should consider releasing the names of individuals involved in civil penalties matters. While ACCU firmly believes that enforcement activities investigation and results are important, including specific individuals involved in civil penalties matters seems unnecessary either now or in the future. ACCU does not support such disclosure since one individual cannot accept blame for an institution's existing internal OFAC monitoring policies.

Finally, ACCU urges OFAC to assess and enhance its ability to handle compliance issues. Many corporates find it increasingly difficult to obtain timely support from OFAC staff due to the breadth and complexity of OFAC requirements. In particular, corporates routinely find themselves dependent upon a response from OFAC regarding decisions affecting funds transfers. At least one corporate is currently involved with a transaction that has been in OFAC's possession, in a research status, for four months.

ACCU again thanks OFAC for the opportunity to comment on these issues. If you or your staff has any questions about ACCU's comments, please do not hesitate to call me at 202/508-6731.

Sincerely,

Christiane G. Hyland

Christiane G. Hyland
ACCU Executive Director

cc: Corporate Credit Union CEOs